REMARKS

We have amended claims 1 and 8 to put them into better form and we have added dependent claims 9-21. After entering the amendments identified herein, claims 1-21 will be pending in this application.

The examiner rejected claims 1-8, under 35 U.S.C. §102(e) as being anticipated by U.S. 6,067,466 to Selker. The examiner stated "the processor (14) could be considered the server when communicating with the remote device (32) and data storage (36) which holds the programs or algorithms." However, the component that the examiner identifies as the remote device is actually an input device, i.e., a console. It is not a unit to which the processor 14 sends an algorithm that is used to compute a probability of a medical outcome or diagnosis. It is not a device that executes an algorithm which models the medical outcome or diagnosis. And it is not a device that is at a remote location but rather is part of the apparatus, contrary to the requirements of claim 1. Indeed, nothing in the Selker patent either teaches or suggests "a predictive instrument that is further programmed to request [an] algorithm from a remote location," as recited in claim 1.

Claim 6, on the other hand, is directed to the entity that stores the algorithms and in response to a request from a remote device sends one of the algorithms to the remote device. As noted, above, processor 14 does not send any algorithm to console 32 nor does it receive an algorithm from console 32.
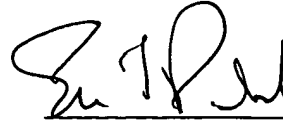
Finally, with regard to claim 8, neither console 32 nor processor 14 retrieves (or receives) an algorithm from the other device, as required by this claim.

For the reasons stated above, we believe that the claims are allowable and therefore ask the Examiner to allow them to issue.

Please apply any charges not covered, or any credits, to Deposit Account No. 08-0219.

Respectfully submitted,

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